IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9078 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JIVANLAL GORDHANLAL PARIKH

Versus

DIRECTOR OF AGRICULUTRAL MARKETING AND RURAL FINANCE

Appearance:

MR JAY SHAH for MR VIJAY H. PATEL for Petitioners

MR MA BUKHARI for MK VAKHARIA for Respondent No. 1

MR KETAN SHAH for Respondent no.2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/06/2000

ORAL JUDGEMENT

1. By this petition, the petitioners challenge the notification dated 31st March, 1995 published by the respondent no.1 whereby certain items like potato, suran, onion and some leafy and fresh vegetables have been

declared as regulated agricultural product under the Gujarat Agricultural Produce Market Act, 1963 for the Halol. Before this notification which was made under sect.6 of the Act aforesaid, respondent no.1 issued a notification under sect.5 which was published on 9/11/1993. As a result of these notifications, it is mandatory to obtain licence under sec.8 of the Act. For contravention of these provisions, a criminal complaint has been filed against the petitioners. Hence, this petition in this court. The prayer has been made for quashing and setting aside the notification dated 31st March, 1995.

2. This petition firstly deserves to be dismissed on the ground of delay and latches. This notification has been made on 31st March, 1995 and this petition has been filed by the petitioner in the court on 22nd September, 1997 i.e. after more than 2 years of the said notification; not only this, the principal market yard and sub market yard have also been constituted on 6th July, 1995 and after 2 years of that, this petition has been filed. For this inordinate delay, the petitioners have failed to furnish any explanation. The petitioners have not taken the licence and when a criminal prosecution has been taken against them, to avoid the same, this petition has been filed. This court has not protected the petitioners and on being put by the court, the learned counsel for the petitioners is unable to say whether the petitioners have now taken the licence or not. Possibility that the petitioners would have taken the licence by this time, cannot be excluded in the facts of this case. Otherwise also, in the challenge to the notification dated 31st March, 1995, I do not find any merit. The notification under sec.5 was published on 9/11/1993 in the official gazette. It was published in the Loksatta Jansatta daily, Gujarat Samachar and Sandesh on 20th November, 1993. It is difficult to accept that these two newspapers have no circulation in the area. It is a case where the respondents have taken further care to put this notification in the office of the Panchayat, Halol as well as at office of the Gram Panchayat and office of the Market Committee on the conspicuous part thereof. This notification has been given wide publicity in Halol area including interior parts of the villages also. But, the petitioners have not raised any objection. It is difficult to accept that the petitioners have no notice of this notification. Similarly, the notification under sec.6 has also been given vide publicity. It was published in the local newspapers, Loksatta and Jansatta on 21st April, 1995. It was displayed on the conspicuous parts of the Halol

Nagar Panchayat, concerned village Panchayats of Halol Taluka as well as office of the Market Committee. The very fact that the petitioners have not raised any voice or made any grievance against this notification even for more than two years goes to show that in fact, they have no objection, whatsoever, against the same. Only when the criminal prosecution, as said earlier, has been filed, then to save themselves from the same, the petitioners have filed this petition. The petitioners have not filed rejoinder to the reply filed by respondent no.1 in the Special Civil Application.

3. In view of this fact, it is difficult to accept that the petitioners have no notice of the notification published under sec.5 and 6 of the Act. As a result of this, this Special Civil Application fails and the same is dismissed. Rule is discharged. Interim relief, if any, granted earlier stands vacated. No order as to costs.

(S. K. Keshote, J.)
(kamlesh)